

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ABBEY PHOTOGRAPHY, INC.,

Plaintiff,

- against -

ADVANCE PUBLICATIONS, INC.

Defendant.

Docket No. 1:19-cv-2214

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Abbey Photography, Inc. (“Abbey” or “Plaintiff”) by and through its undersigned counsel, as and for its Complaint against Defendant Advance Publications, Inc. (“Advance” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph Real Housewives of NJ stars Teresa and Joe Giudice and their wedding, owned and registered by Abbey, a professional photography studio. Accordingly, Abbey seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Upon information and belief, this Court has personal jurisdiction over Defendant because Defendant resides and/or transacts business in New York and is registered with the New York Department of State Division of Corporations.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Abbey is a professional photography studio having a usual place of business at 416 East Central Boulevard, Palisades Park, NJ 07650.

6. Upon information and belief, Advance is a domestic business corporation organized and existing under the laws of the State of New York, with a place of business at 950 Fingerboard Road, Staten Island, New York 10305. Upon information and belief, Advance is registered with the New York State Department of Corporations to do business in New York. At all times material hereto, Advance has owned and operated a website at the URL: www.NJ.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Abbey photographed Real Housewives of NJ stars Teresa and Joe Giudice and their wedding (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Abbey is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph was registered with United States Copyright Office and was given Copyright Registration Number VA 2-115-282.

B. Defendant’s Infringing Activities

10. Advance ran an article on the Website entitled *'RHONJ' star Joe Giudice on upcoming prison stint: 'Not a big deal'*. See: https://www.nj.com/entertainment/celebrities/2016/03/joe_giudice_jail_fort_dix_teresa_giudice_rhonj.html. The article featured the Photograph. A true and correct copy of the article and a screenshot of the Photograph on the Website are attached hereto as Exhibit B.

11. Advance did not license the Photograph from Plaintiff for its article, nor did Advance have Plaintiff's permission or consent to publish the Photograph on its Website.

12. Abbey first learned of the use of the Photograph on Defendant's website in May 2016.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

13. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

14. Advance infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Website. Advance is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

15. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

16. Upon information and belief, the foregoing acts of infringement by Advance have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

17. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Advance be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. The Defendant Advance be adjudged to have falsified, removed and/or altered copyright management information in violation of 17 U.S.C. § 1202.
3. That Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
4. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
5. That Plaintiff be awarded punitive damages;
6. That Plaintiff be awarded attorney's fees and costs;
7. That Plaintiff be awarded pre-judgment interest; and
8. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
April 15, 2019

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